

## CORRECTING ORDER

### EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**

*- appellant* EMPLOYER

**CASE NO.**

PW31/2009 TE24/2009

against the recommendation of the Rights Commissioner in the case of:  
EMPLOYEE *- respondent*  
under

### **PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr J. Goulding  
Mr. J. Dorney

heard this appeal at Dublin on 8th February 2010

#### **Representation:**

Appellant(s) : In person

Respondent(s) : Ms. Aoife Marrinan, Richard Grogan & Associates, Solicitors,  
16 & 17 College Green, Dublin 2

The decision of the Tribunal was as follows:-

This order corrects the original order dated March 18<sup>th</sup> 2010 and should be read in conjunction with that order.

#### **Determination**

The Tribunal cannot hear the appeal under the Payment of Wages Act, 1991. Accordingly it has no option but to decline jurisdiction because of Section 7(2) of the Payment of Wages Act, 1991, which provides:

*“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-*

*(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against*

*the decision, and*

*(b) a copy of the notice to the other party concerned.”*

The Tribunal is not satisfied that s.7 (2) (b) above has been complied with and therefore it is satisfied it does not have jurisdiction to hear the appeal of the Rights Commissioner under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

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APPEAL(S) OF:

- *appellant* EMPLOYER

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#### **Representation:**

Appellant(s) : In person

Respondent(s) : Ms. Aoife Marrinan, Richard Grogan & Associates, Solicitors,  
16 & 17 College Green, Dublin 2

The decision of the Tribunal was as follows:-

This case came before the Tribunal as a result of an appeal by an employer (the appellant) against a decision of the Rights Commissioner under the Payment of Wages Act, 1991 **R-063765-PW-08/POB**, in the case of an employee (the respondent) and under the Terms of Employment Acts, 1994 to 2001 **R-063761-te-08/POB**.

At the outset the respondent's representative conceded that her client had received written terms of employment but was unaware of this information on the day of the Rights Commissioners hearing as the appellant company had not attended on that day. This being so the Tribunal has no alternative to allow the appeal thereby upsetting the recommendation of the Rights Commissioner in respect of the Terms of Employment Acts, 1994 to 2001.

#### **Determination**

The Tribunal cannot hear the appeal under the Payment of Wages Act, 1991. Accordingly it has no option but to decline jurisdiction because of Section 7(2) of the Payment of Wages Act, 1991, which provides:

*“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-*

*(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and*

*(b) a copy of the notice to the other party concerned.”*

The Tribunal is not satisfied that s.7 (2) (a) above has been complied with and therefore it is satisfied it does not have jurisdiction to hear the appeal of the Rights Commissioner under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)